IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 110 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

TALAB SIDDIQUE

Versus

THE SUPERINTENDENT OF CUSTOMS

Appearance:

1. Criminal Revision Application No. 110 of 1995

MR RS SANJANWALA for Petitioner No. 1-2

MR MUKESH R SHAH for Respondent No. 1

Mr S J Dave, APP for Respondent No. 2

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 12/03/2003

ORAL JUDGEMENT

This is is a revision application under section 397 read with section 401 of the Code of Criminal

Procedure, 1973 (for short, 'the Code') in order to challenge an order dated 16.3.1995 recorded by the learned Sessions Judge, Jamnagar in revision application No.98 of 1994 under which the learned Sessions Judge allowed the said revision application of the Superintendent of Customs and directed that the bail granted to the petitioners be cancelled and the petitioners be taken in judicial custody. It appears that the petitioners were involved in an offence under section 135 of the Customs Act and, he had applied for enlargement on bail before the learned Chief Judicial Magistrate First Class, Jamnagar. There an order was passed on 30.4.1994 granting bail. The said order was reversed in the aforesaid revision by the learned Sessions Judge. Hence this revision application.

2. Rule was issued. Mr M R Shah, learned Addl.Central Government Standing Counsel appears for respondent no.1 and Mr S J Dave, learned APP appears for respondent no.2. At the hearing, Mr R S Sanjanwala, learned Advocate appearing for the petitioner makes a statement that the order of the sessions Court was suspended and stay was granted against the impelementation of the said order cancelling bail of the petitioners. He also makes a statement that the petitioners were continued to be on bail right from the beginning on account of the order of the Court of the learned Chief Judicial Magistrate granting bail by order dated 30.4.1994. He also states that no complaint has yet been filed. In above view of the matter, when the complaint has still not been filed and when the petitioners are on bail since April, 1994, then there is no reason to cancel the bail. In above view of the matter, the order of the learned Sessions Judge cancelling the bail has to be treated to be illegal and, therefore, it should be set aside.

3. For the foregoing reasons, this revision application is allowed. The order of the learned Sessions Judge at Jamnagar dated 16.3.1995 passed in Criminal Revision Application No.98 of 1994 is ordered to be set aside. Rule is made absolute.

12.3.2003 [D P Buch, J.]
msp